

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Continuation Application of  
TIEDEMANN JR. et al. ) For: METHOD AND APPARATUS FOR  
Application Serial No.: Unknown ) MAXIMIZING THE USE OF  
Filed: Herewith ) AVAILABLE CAPACITY IN A  
 ) COMMUNICATION SYSTEM  
 )  
 ) Attorney Docket No.: PA792C1

PRELIMINARY AMENDMENT

Assistant Commissioner of Patents  
BOX NEW PATENT APPLICATION  
"CONTINUATION"  
Washington, D.C. 20231

Attention: S. NGUYEN  
Examiner

Dear Sir:

The following is a preliminary amendment of the above-identified application, which is a Rule 1.53(b) continuation application of parent application Serial No. 09/264,435 filed 03/08/1999 entitled "METHOD AND APPARATUS FOR MAXIMIZING THE USE OF AVAILABLE CAPACITY IN A COMMUNICATION SYSTEM". Please amend the above-identified application as follows:

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express mail in an envelope addressed to the Assistant Commissioner of Patents, Washington, D.C. 20231, on:

09/19/2001

(Date of Deposit)

Carola Emelius-Swartz

(Name of Person Making Deposit)



09/18/2001

(Date of Signature)

## REMARKS

Claims 1-17 are pending in this application. In the Office Action mailed March 14, 2001, in connection with the parent application, the Examiner rejected Claim 1 based on the prior art of record. Applicants respectfully submit that the prior art of record does not disclose or suggest these claims.

### 1. Rejection under 35 U.S.C. 102(b)

The Examiner rejected claim 1 as being anticipated by U.S. Patent No. 5,463,626 issued to Hoff et al. (Hoff, hereinafter). Applicants respectfully submit that Hoff does not disclose the claimed limitations.

Specifically, Hoff does not disclose "*simultaneously transmitting the previously scheduled traffic streams and the portion of the previously unscheduled traffic stream during an identified portion of the frame*," as claimed in Claim 1. Hoff does disclose "interleaving of message data and screen data." (Abstract, lines 3-4, Col. 3, lines 29-45, and FIG. 5.) According to Hoff, "[a]fter messages from the first queue have been assigned to their respective time slots, the remaining time slots are flagged as free and made available to transmit data from the second queue." (Col. 3, lines 29-33.) Hoff explicitly discloses that "[t]o service this data from the second queue, the clearinghouse uses time slots in the transmission protocol that would otherwise be left open." (Col. 3, lines 29-22.) Accordingly, Hoff does not transmit the two data types simultaneously during a time slot.

Applicants' FIG. 2, for example, shows how the scheduled data "14A-14F" and the unscheduled data "20A-20B" are simultaneously transmitted during each time frames "18A-18F." In contradiction, FIGURE 5 of Hoff shows that "screen data" and "message data" are transmitted in different time slots, because Hoff interleaves the "screen data" into the "vacant time slots" that have not been assigned to any "message data." (Hoff, FIG. 4.)

Applicants' simultaneous transmission of both types of data is for using the full transmission power capacity during a time frame. Hoff is neither concerned with nor addresses this issue. Hoff is only concerned with transmitting some data in vacant time slots.

Further, Hoff transmits the "message data" and "screen data" to their associated receivers. (Col. 3, lines 2-9 and Col. 6, lines 5-15.) According to Hoff, each receiver monitors only the time slots it has been programmed to monitor, and each receiver receives only the messages that include specific receiver identifier codes. Applicants' claimed invention allows transmission of both types of data to the same receiver or mobile station.

Therefore, since Hoff does not disclose or suggest at least the above claimed limitations, it is respectfully requested that the Examiner withdraw this rejection.

#### **REQUEST FOR ALLOWANCE**

In view of the foregoing, it is submitted that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application is earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below

Respectfully submitted,

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